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# United States Senate

WASHINGTON, DC 20510-4804

July 28, 2010

COMMITTEE ON THE BUDGET  
COMMITTEE ON FOREIGN RELATIONS  
COMMITTEE ON THE JUDICIARY  
SELECT COMMITTEE ON INTELLIGENCE  
DEMOCRATIC POLICY COMMITTEE

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Dear Chairman Genachowski:

Given the Federal Communications Commission's jurisdiction over telecommunications, I write to ask for your help resolving a problem that has affected many, particularly rural residents in western and northern Wisconsin—the inability to receive in-state news, weather, sports and entertainment on their television. It is a complicated issue involving multiple parties, all of whom seem to acknowledge that a solution should be possible under current rules. I ask the Commission to use its technical expertise and oversight ability to bring the parties together to find a narrow solution to the benefit of consumers.

A number of my rural constituents who rely on satellite for television have expressed concerns over the years about their inability to receive Wisconsin-based news, weather, sports and entertainment. In total there are 13 counties in Wisconsin in this situation and, to make the situation even more complicated, some residents in these counties like receiving the out-of-state broadcasts, although many wish to receive at least the local portion of the broadcasts from the closest in-state stations in addition to the designated "local" stations according to Nielsen's media markets. While many of the local cable providers in the affected counties have been able to provide this service to their viewers, the same is not true for the mostly rural residents of these typically sparsely populated counties who rely on satellite. These are also the same areas where broadband is unavailable or too expensive so accessing the emerging television content on the Internet is precluded by slow online Internet connections.

In addition to this "orphan" county issue, concerns have also been expressed about the Nielsen determinations. There are counties in Wisconsin where half the county is closer to and connected to one media market and half to a different media market, yet the Nielsen determination lumps them all together. This raises the question of whether relying exclusively on these maps is the best thing for the public.

Since so many local cable providers have been able to work out business arrangements with in-state broadcasters in adjacent markets in the orphan counties, I hope that similar solutions could be found to allow non-syndicated and non-duplicated local programming for satellite providers. While all the parties—satellite television providers, broadcasters, networks and sports leagues—seem to agree that a business solution should be possible, no such solution has been forthcoming.

I urge the Commission to provide its assistance and advice in achieving both short term and long term solutions to this issue. While the Commission may have limited authority to mandate a

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○ 425 STATE STREET  
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solution among the different businesses involved, the Commission has considerable technical expertise and experience in these industries that should allow it to help the parties reach a mutually agreeable solution that serves the needs of rural Americans. I also ask the Commission to look into the Nielsen media market boundaries.

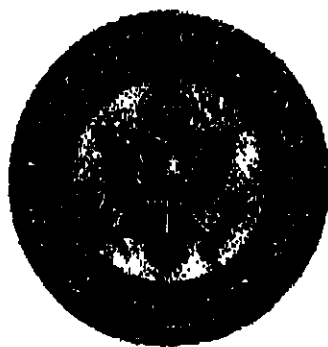
I look forward to your response.

Sincerely,



Russell D. Feingold

CC: The Honorable Michael J. Copps  
The Honorable Robert M. McDowell  
The Honorable Mignon L. Clyburn  
The Honorable Meredith Attwell Baker  
Senator Gordon H. Smith, President and CEO, National Association of  
Broadcasters  
Michael White, Chairman, President & CEO, DIRECTV  
Charles W. Ergen, Chairman of the Board, President and CEO, Dish Network  
Roger Goodell, Commissioner, National Football League  
Kyle McSillarow, President & CEO, National Cable and Telecommunications  
Association  
Anne Sweeney, President, Disney/ABC Television Group  
Leslie Moonves, President and CEO, CBS Corporation  
Gaude Lydia Paez, Vice President Communications, Fox Broadcasting  
Company  
Jeff Zucker, President and CEO, NBC Universal



FAX FROM THE OFFICE OF  
U.S. SENATOR RUSS FEINGOLD  
506 Hart Senate Office Building  
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To: Michael Perko

Fax: 202-418 2806

Date: 7/28/2010

From: Senator Feingold

Fax: (202) 224-2725

Total Pages (including cover page):



OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

September 1, 2010

The Honorable Russell D. Feingold  
United States Senate  
506 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Feingold:

Thank you for your letter regarding consumers that are unable to receive local programming via satellite television providers. I appreciate your interest in this important matter and have asked the Chief of the Media Bureau's Office of Communications and Industry Information to reply to your letter. His response is attached.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to be "J. Genachowski", is written above the printed name. The signature is stylized with a large, sweeping initial "J".

Julius Genachowski



Federal Communications Commission  
Washington, D.C. 20554

September 1, 2010

IN REPLY REFER TO:  
CN-1001254

The Honorable Russell D. Feingold  
United States Senate  
506 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Feingold:

Chairman Genachowski has asked the Media Bureau to review your recent letter regarding the availability of local television broadcast stations from satellite television providers. Specifically, you are concerned that a number of your constituents who subscribe to satellite television service may not receive broadcast network stations that are licensed to communities in Wisconsin. I understand your concerns and appreciate the opportunity to respond.

As you know, the availability of satellite-delivered local broadcast stations is governed by the Satellite Home Viewer Improvement Act of 1999 ("SHVIA") and the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"). The SHVIA authorized satellite television carriers to retransmit broadcast signals ("local-into-local service") to consumers who reside in the local station's Designated Market Area ("DMA") as defined by the Nielsen Company ("Nielsen"). The SHVERA included specific mechanisms designed to address concerns like those discussed in your letter related to the availability of in-state broadcast stations to satellite television consumers. For example, the SHVERA generally requires that the local-into-local service offered by satellite carriers to the residents of DMAs that encompass counties from more than one state (*i.e.* multistate DMAs) include all qualifying broadcast stations that are located in the counties assigned to the DMA. The SHVERA also authorized satellite television carriers to provide consumers who subscribe to local-into-local service with the signal of any station located outside the DMA in which the subscriber is located if the television signal is deemed to be "significantly viewed" (*i.e.*, generally available over-the-air) in accordance with the standards and procedures established by the Commission.

As noted in your correspondence, Nielsen has assigned thirteen Wisconsin counties to one of three "multistate" DMAs--Duluth-Superior, Marquette and Minneapolis-St. Paul. The SHVERA, therefore, generally requires that the local-into-local service provided by satellite carriers to residents of these "multistate" DMAs include the local broadcast stations licensed to these cities, as well as qualifying local stations, if any, licensed to communities in the Wisconsin counties that are assigned to the DMAs. Pursuant to this requirement, the local-into-local service provided by DIRECTV and DISH Network to satellite consumers in the Duluth-Superior DMA includes KBJR-DT (NBC), which is licensed to Superior, Wisconsin. While WHWC-DT (PBS), Menomonie, Wisconsin is eligible to be included in the local broadcast package provided in the



Minneapolis-St. Paul DMA, it is my understanding that WHWC has not asserted its mandatory carriage right or entered into a retransmission consent agreement with the satellite television carriers. Finally, there do not appear to be any Wisconsin broadcast stations that qualify for mandatory carriage in the Marquette DMA.

Three Wisconsin television stations qualify as “significantly viewed” in three of the Wisconsin counties that have been assigned by Nielsen to the Minneapolis-St. Paul or Marquette DMAs, but the stations currently are not included in the local-into-local service that is provided by satellite carriers. These stations are WEAU-DT (NBC), Eau Claire, WFRV-DT (CBS), Green Bay, and WJFW-DT (NBC), Rhinelander. It should be noted that satellite carriers are not required to carry a television station that is deemed to be significantly viewed. Rather, the satellite carrier and the station may negotiate an agreement concerning the carriage of the signal. Pursuant to Commission regulations, satellite carriers and broadcast television stations may file petitions with the Commission requesting that the significantly viewed list be expanded to include additional commercial television signals and communities if they satisfy the significantly viewed criteria established by the Commission.

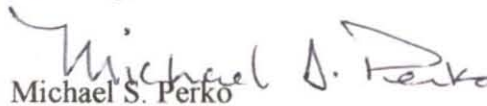
In addition to reauthorizing certain provisions of the SHVERA, the recently enacted Satellite Television Extension and Localism Act of 2010 (“STELA”) modified the significantly viewed provisions to facilitate the carriage of qualified stations by satellite television providers. For example, the STELA revises the “prerequisites” that satellite companies were required to satisfy in order to carry significantly viewed stations. The Commission has adopted a *Notice of Proposed Rulemaking* (FCC 10-130) to implement the new provisions and comments and reply comments regarding the changes must be filed with the Commission no later than August 17, 2010 and August 27, 2010, respectively.

The STELA also includes a provision concerning the availability of television broadcast stations that are licensed to the same state in which the consumer resides. Pursuant to this provision, the Commission is directed to examine consumer access to in-state broadcast television programming and report its findings to Congress. The report is required to include an analysis of (1) the number of households in a State that receive the signals of local broadcast stations located in a different State; (2) the extent to which consumers in each local market have access to in-state broadcast programming over-the-air or from a multichannel video programming distributor, such as a satellite television company; and (3) whether there are alternatives to the DMAs established by Nielsen to define local markets that would provide more consumers with in-state broadcast programming. The Commission is required to submit the report to Congress in August 2011.

While significantly viewed stations currently are not included in the local programming packages provided to many satellite television consumers, the implementation of the STELA provisions may make the carriage of significantly viewed stations more attractive to satellite television providers. In addition, the Commission's report may provide helpful information and guidance for future statutory revisions that also could increase the amount of in-state broadcast programming provided to satellite television consumers.

I hope that this information is helpful and please do not hesitate to contact me if I may be of further assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael S. Perko". The signature is fluid and cursive, with a large initial "M" and a stylized "P".

Michael S. Perko  
Chief, Office of Communications and Industry Information  
Media Bureau